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a school year which begins or ends in such taxable year, or

"(B) \$200.

For purposes of this paragraph, the amount of the tuition with respect to any student which may be taken into account for any school year shall not exceed \$400.

"(2) **REDUCTION OF CREDIT.**—The aggregate amount which would (but for this paragraph) be allowable under subsection (a) shall be reduced by an amount equal to \$1 for each full \$20 by which the adjusted gross income of the taxpayer (or, if the taxpayer is married, the adjusted gross income of the taxpayer and his spouse) for the taxable year exceeds \$18,000. For purposes of this paragraph, marital status shall be determined under section 143.

"(c) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **TUITION.**—The term 'tuition' means any amount required for the enrollment or attendance of a student at a private nonprofit elementary or secondary school. Such term does not include any amount paid directly or indirectly for meals, lodging, transportation, supplies, equipment, clothing, or personal or family expenses. If the amount paid for tuition includes any amount (not separately stated) for an item described in the preceding sentence, the portion of the amount paid for tuition which is attributable to such item shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) **PRIVATE NONPROFIT ELEMENTARY OR SECONDARY SCHOOL.**—The term 'private nonprofit elementary or secondary school' means an educational organization described in section 170(b)(1)(A)(ii)—

"(A) which is described in section 501(c)(3) and which is exempt from tax under section 501(a),

"(B) which regularly offers education at the elementary or secondary level, and

"(C) attendance at which by students who are subject to the compulsory education laws of the State satisfies the requirements of such laws.

"(3) **ELEMENTARY OR SECONDARY EDUCATION.**—The term 'elementary or secondary education' does not include (A) kindergarten, nursery, or other preschool education, and (B) education at a level beyond the 12th grade. In the case of individuals who are mentally or physically handicapped, such term includes education offered as a substitute for education at the elementary or secondary level.

"(4) **SCHOOL YEAR.**—The term 'school year' means a one-year period beginning July 1 and ending June 30.

"(5) **FULL-TIME STUDENT.**—An individual is a full-time student for a school year if he is a student at one or more private nonprofit elementary or secondary schools during each of 5 calendar months during the school year.

"(d) **APPLICATION WITH OTHER CREDITS.**—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of tax imposed on the taxpayer for the taxable year by this chapter (computed without regard to the tax imposed by section 56), reduced by the sum of credits allowable under this subchapter (other than under this section and sections 31 and 39).

"(e) **AMOUNTS NOT TO BE TAKEN AS DEDUCTIONS.**—Any payment which the taxpayer elects (in such manner as the Secretary or his delegate shall by regulations prescribe) to take into account for purposes of determining the amount of the credit under this section shall not be treated as an amount paid by the taxpayer for purposes of determining whether the taxpayer is entitled to (or the amount of) any deduction (other than for the purposes of determining support under section 152).

"(f) **REGULATIONS.**—The Secretary or his delegate shall prescribe regulations to carry out the provisions of this section."

may be necessary to carry out the provisions of this section."

(b) **LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.**—Section 7605 of the Internal Revenue Code of 1954 (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) **EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.**—Nothing in section 42 (relating to tuition paid for elementary or secondary education) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is a 'private nonprofit elementary or secondary school' within the meaning of section 42(c)(2)."

(c) **CLERICAL AMENDMENT.**—The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following: "Sec. 42. Tuition paid for elementary or secondary education."

"Sec. 43. Overpayments of tax."

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid on or after August 1, 1973, for school periods beginning on or after such date.

**SEC. 2. JUDICIAL DETERMINATION OF CONSTITUTIONALITY.**

(a) **TAXPAYERS HAVE STANDING TO SUE.**—Notwithstanding any other law or rule of law, any taxpayer of the United States may commence a proceeding (including a proceeding for a declaratory judgment or injunctive relief) in the United States District Court for the District of Columbia within the 3-month period beginning on the date of the enactment of this Act to determine whether the provisions of section 42 of the Internal Revenue Code of 1954 (as added by section 1 of this Act) are valid legislation under the Constitution of the United States. Proceedings commenced under this subsection may, at the discretion of the court, be consolidated into one proceeding.

(b) **JUDICIAL DETERMINATION.**—Notwithstanding any other law or rule of law, the United States District Court for the District of Columbia shall have jurisdiction of any proceeding commenced as provided in subsection (a) and shall exercise the same without regard to whether a person asserting rights under this section shall have exhausted any administrative or other remedies which may be provided by law. Such proceeding shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

#### EXPANSION OF REHABILITATION PROGRAM—NOTICE OF HEARING

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from California (Mr. CRANSTON), I am submitting a statement announcing forthcoming action by the Subcommittee on the Handicapped of the Labor and Public Welfare Committee, on S. 7, the Rehabilitation Act of 1973, which was introduced by the senior Senator

from West Virginia (Mr. RANDOLPH) on Thursday, January 4, 1973.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### STATEMENT BY SENATOR CRANSTON

For the information of Senators and the public, I announce that there will be a public hearing on Wednesday, January 10, 1973, before the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare for the purpose of receiving testimony on S. 7, the Rehabilitation Act of 1973. This hearing will be held in Room 4232 at 9:00 a.m.

Mr. President, I am pleased to respond to the request of the Senator from West Virginia (Mr. RANDOLPH), the Chairman of the subcommittee, to act as Chairman for the purposes of considering this legislation. I am very grateful to the distinguished Senator for all the counsel, support, and assistance he gave me in the 92d Congress when I acted in the same capacity with respect to this legislation to improve and expand the vocational rehabilitation program.

As Senators are aware, this most vital legislation, which was a unique bipartisan effort and a culmination of nearly a year's work on the part of the respective Members of the Senate and the House of Representatives, and their staffs, was agreed to in Conference Report (92-1581) on H.R. 8395 at the end of the last Congress. The pocket veto of this bill was announced on October 27, 1972. The provisions of S. 7 are the same as those in the vetoed H.R. 8395.

This rehabilitation program is now in its 53d year. It has been directly responsible for enriching the lives and increasing the self-sufficiency of millions of handicapped individuals by placing them in jobs resulting in the production of tax revenues that might otherwise have been lost. It is one of the most cost effective programs that the Federal Government supports.

Mr. President, I earnestly hope that the Senate will proceed to pass this legislation as swiftly as possible. We have scheduled a subcommittee session to consider the bill immediately following the hearing on January 10. The new programs, authorities, and appropriations authorizations in the bill are essential to move us more closely toward meeting the needs of the millions of deserving Americans who have suffered the misfortune of being handicapped.

#### NOTICE OF HEARINGS ON NOMINEES IN THE DEFENSE DEPARTMENT AND CENTRAL INTELLIGENCE AGENCY

Mr. STENNIS. Mr. President, as chairman of the Senate Committee on Armed Services, I announced yesterday that confirmation hearings will begin next Tuesday on President Nixon's nominees to top positions in the Defense Department and the Central Intelligence Agency.

I also announced that Mr. Helms, the outgoing Director of Central Intelligence, would meet with the committee in executive session on Monday for a review of world developments. That Monday meeting has since been rescheduled, from Monday afternoon to 10:30 in the morning.

I have already notified committee members with respect to all of these arrangements.

I am submitting this statement that the text of my news release, issued yesterday, be

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published in the RECORD at this point for the information of all Senators.

There being no objection, the release was ordered to be printed in the RECORD as follows:

The Senate Armed Services Committee will begin confirmation hearings Tuesday, January 9th, on President Nixon's nominees to top positions in the Defense Department and Central Intelligence Agency. Chairman John C. Stennis announced today.

Open sessions will start at 10 a.m., Tuesday, resume Wednesday morning, and continue Wednesday afternoon, if necessary, Senator Stennis said. The opening witness will be former Secretary of Health, Education, and Welfare, Elliot J. Richardson, who has been nominated to serve as Secretary of Defense.

Richardson will be followed by William P. Clements, Jr., of Dallas, Texas, nominated by the President to be Deputy Secretary of Defense, and James R. Schlesinger, former Chairman of the Atomic Energy Commission, who has been nominated as Director of Central Intelligence.

Senator Stennis also announced that outgoing CIA Director, Richard Helms, will meet with the Committee in Executive session on Monday afternoon for the regular periodic review of world developments.

#### ADDITIONAL STATEMENTS

##### GLEN ROCK CAROLER'S ASSOCIATION

Mr. SCOTT of Pennsylvania. Mr. President, as our sights and ambitions are now directed to the new year, I would like to step back a few days to pay homage and to extend my congratulations to the Glen Rock Caroler's Association of Glen Rock, Pa., on their 125th anniversary.

The carols, of English origin, were brought from England by the original settlers of Glen Rock. On Christmas Eve, 1848, five men with one member playing a bassoon went from house to house serenading the villagers. It is believed that there were at least four songs in their repertoire during that year.

The tradition has been carried on each year since 1848 and the carolers are now composed of 40 members and 10 associates. For the first time, period costumes of the 1840's were worn this Christmas in observance of their 125th anniversary.

I heartily commend this worthy association for bringing the Christmas spirit into the homes of their friends and neighbors as their descendants have done continuously for 125 years.

##### LITTLE CIGAR ADVERTISING

Mr. MOSS. Mr. President, these are not the words of an antismoking partisan; these are the words of an editorial published in this week's Advertising Age, the national newspaper of marketing:

Winchester is blowing smoke through a legalistic loop-hole and the smoke ring is forming a noose for all advertising. To the public, the Winchester commercial is the same as a cigarette commercial.

During the last Congress, my consumer subcommittee held several days of hearings on a variety of matters associated with cigarette smoking. In the course of our inquiry, we discussed little cigar adver-

tising in the broadcast medias. This advertising is a pernicious distortion of congressional intent. One little cigar has moved into national distribution using broadcast advertising reminiscent of cigarette advertising. Another little cigar has been regionally introduced.

The creative platform and Winchester's very presence is a tease, designed to encourage cigarette smoking.

Again, a quotation from Advertising Age.

I will shortly introduce legislation to amend the Federal Cigarette and Labeling Advertising Act to redefine the term "cigarette," so that cigars will be restricted in their advertising and promotion in the same manner as other cigarettes.

I am pleased to note that the National Interagency Council on Smoking and Health, consisting of the major national health and educational organizations concerned with smoking, has endorsed efforts to break the back of this outrageous evasion of the ban on broadcast cigarette advertising.

Mr. President, I ask unanimous consent that the text of the Advertising Age editorial be printed in the RECORD.

There being no objection, the ordered to be printed in the RECORD, as follows: [From the Advertising Age, Jan. 3, 1973]

##### A WHOLE 'NOTHER DISASTER

A group of public interest attorneys is giving those Winchester little cigars a rough time.

The lawyers don't question Winchester's right to be advertised on television; they're more concerned about the absence of a health warning on the pack. They're asking the Federal Trade Commission to require a strongly worded warning that would carry a rather ominous litany: "This product if inhaled is dangerous to health and may cause death from cancer, coronary heart disease, chronic bronchitis, pulmonary emphysema and other diseases." That's what they want the label to read.

Can a smoker catch all those things from one Winchester? One drag? How about one pack of this low-tar brand?

No, we're not bothered so much about Winchester's inhalability and the health warning. We are bothered about Winchester being on tv in the first place. You can split all the legalistic hairs you can find and tell us that under Internal Revenue Service classifications, Winchester is not a cigarette; it's a little cigar. We say so what? Who's kidding whom? The brand is made on cigaret machines. To the public, the Winchester commercial is the same as a cigaret commercial.

There's the cowboy-type and his Marlboro-esque machismo, liping the weed from a pack as so many other Marlboro men before him have done. There are the curls of smoke, the look of pleasure, the lovely girl who yields herself to this silent stranger and walks off with him, wordlessly, into the sunset. It's junk. But that's not reason enough to ban the Winchester campaign. We'd ban the campaign because we think Winchester is the cigaret's version of reminder advertising. It's the cigaret's toe in the tv door. The creative platform and Winchester's very presence is a tease, designed to encourage cigaret smoking. "Ain't no cigaret; it's a whole 'nother smoke," says Winchester.

To the public, the language—implicit and explicit—is that of smoking. As long as Winchester remains on tv, it cannot truly be said that cigaret smoking is off the air. We bring this up because there is something unwhole-

smokers from a privileged sanctuary, based on a technicality in the tax law. We think it's important because we find that more and more, people outside our business are using the Winchester campaign as an example of advertising cynicism and hypocrisy. The campaign undermines all of advertising.

As viewers look upon Winchester as a rip-off and assign it to those Madison Avenue hucksters, you can chalk up another bitter setback for the advertising business, its credibility and its responsibility. The best thing that could happen would be for Winchester to stop the charade, or for the tv stations to knock it off the air.

While there are other brands that make up the little cigar market, we're zeroing in on Winchester because it alone positions itself in an exploitive fashion as a subliminal cigaret. The earlier entries, the original little cigar brands, are either not on tv or are positioned so as to be exempt from criticism.

Either we change the law and reopen the airwaves to all cigarets or we get Winchester off the air and in compliance with the law's intent. Right now, Winchester is blowing smoke through a legalistic loophole and the smoke ring is forming a noose for all advertising.

#### THE CONTINUING TRAGEDY

Mr. RIBICOFF. Mr. President, the Vietnam war has been a national disaster for this country. It is tragic that in 1973 we have not yet ended our involvement in this morass. The war has been most disastrous, of course, for those who have been killed and maimed by it. But it also continues to undermine the moral and spiritual health of the United States.

Is it really so impossible to get our country out of this war? Is it really beyond the ingenuity of the Congress to disengage us from this tragedy? Will more massive bombing be used as a negotiating tool?

I suppose we should be grateful that we are now in a negotiating phase rather than a bombing period. But there is no one to explain to us here in the Senate or to the American people why our air force unleashed such destructive fury on the people of North Vietnam, and why, after peace was at hand, the negotiations broke down.

Over the years this war has been computerized, analyzed and Vietnamized. And over the years the American people and the Congress have been lied to about this war. Now we have bombed and blasted North Vietnam on an unprecedented scale without a word of explanation from our President and without a minute of testimony by our Secretary of State.

What has this accomplished? Some 30 aircraft, including 16 B-52's, have been lost and over 100 American airmen are dead or missing. At least this is what we are being told. What we do know for certain is that the prisoner of war camps in North Vietnam are now fuller of Americans, and that thousands more Vietnamese are dead.

Four years ago, a candidate for the Presidency declared—

Those who have had a chance for four years and could not produce peace should not be given another chance.

How many more chances will be asked for before the Congress acts to halt this

The Senate, to its credit, has gone on

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Begich. Subsequently, the Speaker appointed Representatives Blatnik, Camp, Howard, and Roncalio.

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**Committee Elections:** Agreed to the following resolutions, electing certain members on a temporary basis to the below-listed committees:

H. Res. 95, Committee on Appropriations (majority), Mahon, chairman, Whitten, Rooney of New York, Sikes, Passman, Evins of Tennessee, Boland of Massachusetts, Natcher, Flood, Steed, Shipley, Slack, Flynt, Smith of Iowa, Giaimo, Hansen of Washington, Addabbo, McFall, Patten, Long of Maryland, Yates, Casey, Evans of Colorado, Obey, Roybal, Stokes, Roush, McKay, and Beville.

H. Res. 96, Committee on Rules (majority), Madden, chairman, Delaney, Bolling of Missouri, O'Neill, Sisk, Young of Texas, Pepper, and Matsunaga.

H. Res. 97, Committee on House Administration (majority), Hays, Chairman, Thompson of New Jersey, Dent, Nedzi, Brademas, Gray, Hawkins, Gettys, Bingham, Podell, Annunzio, Gaydos, Jones of Tennessee, and Molloy.

H. Res. 98, Committee on Appropriations (minority), Cederberg, Rhodes, Minshall, Michel, Conte, Davis of Wisconsin, Robison of New York, Shriver, McDade, Andrews of North Dakota, Wyman, Talcott, Riegle, Wyatt, Edwards of Alabama, Del Clawson, Scherle, McEwen, Myers, and Robinson of Virginia.

H. Res. 99, Committee on Rules (minority), Anderson of Illinois, Martin of Nebraska, Quillen, and Latta.

H. Res. 100, Committee on House Administration (minority), Devine, Dickinson, Cleveland, Harvey, Hansen of Idaho, Crane, Ware, Veysey, and Frenzel.

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**Legislative Program:** Majority leader announced the program for the week beginning Monday, January 8. Agreed to adjourn from Saturday to Tuesday.

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**Quorum Calls—Record Votes:** No quorum calls or record votes developed during the proceedings of the House today.

**Program for Tuesday:** Met at noon and adjourned at 2:16 p.m. until noon on Tuesday, January 9. There is no legislative business scheduled.

## Committee Meetings

No meetings were held.

## Joint Committee Meeting

### EMPLOYMENT-UNEMPLOYMENT

**Joint Economic Committee:** On Friday, January 5, committee held hearings to receive testimony on employment-unemployment figures for December 1972 from Geoffrey H. Moore, Commissioner, Bureau of Labor Statistics, Department of Labor.

Hearings were recessed subject to call.



## ADDITIONAL COMMITTEE MEETINGS

Week of January 8-13

(Committee meetings are open unless otherwise indicated)

### Senate

**Committee on Armed Services:** January 8, executive, to receive a briefing from CIA Director, Richard Helms, 2:30 p.m., 212 Russell (Old) Senate Office Building.

January 9, full committee, to hold hearings on the nominations of Elliot L. Richardson, to be Secretary of Defense; William P. Clements, Jr., to be Deputy Secretary of Defense; and James R. Schlesinger, to be Director of Central Intelligence, 10 a.m., 318 Russell (Old) Senate Office Building.

## COMMITTEE MEETING FOR MONDAY, JANUARY 8

(All meetings are open unless otherwise designated)

### House

**Committee on Armed Services,** to meet with Secretary of Defense Laird, 10 a.m., 2118 Rayburn Building.